



# STAFF REPORT

## Planning Commission

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### CASE #Z-938-17

<b>PC Date:</b>	November 1, 2016	<b>Case Planner:</b>	Robin Kerns
<b>CC Date:</b>	December 5, 2016		
<b>Location:</b>	8799 Brighton Road (SWC of Brighton Road & 88th Ave.)		
<b>Applicant:</b>	Murphy Oil USA, Inc	<b>Owner:</b>	Paul Montoya
<b>Address:</b>	422 N. Washington Ave. El Dorado, AR 71730	<b>Address:</b>	255 N. 11 <sup>th</sup> Ave. Brighton, CO 80601

### Case Summary

<b>Request:</b>	Annexation zoning of subject property from ADCO I-1 designation to Commerce City C-3 zone district. This case is in conjunction with Annexation case AN-244-17, and Development Plan case D-315-17.
<b>Project Description:</b>	The subject property, which is vacant, is requesting to be annexed into Commerce City. In conjunction with the proposed annexation, a C-3 zoning designation is requested in order to accommodate the development of a new Convenience Store with Fuel Sales.
<b>Issues/Concerns:</b>	- Compliance with the Comprehensive Plan
<b>Key Approval Criteria:</b>	Compliance with the Comprehensive Plan
<b>Staff Recommendation:</b>	Approval
<b>Current Zone District:</b>	ADCO (Unincorporated Adams County) I-1
<b>Comp Plan Designation:</b>	Commercial

### Attachments for Review: *Checked if applicable to case.*

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> Applicant's Narrative Summary | <input checked="" type="checkbox"/> Vicinity Map |
| <input checked="" type="checkbox"/> Site Plan                     |  |

## Background Information

### Site Information

<b>Site Size:</b>	+/- 1.7 acres
<b>Current Conditions:</b>	Vacant
<b>Existing Right-of-Way:</b>	Brighton Road
<b>Neighborhood:</b>	Rolla
<b>Existing Buildings:</b>	None
<b>Buildings to Remain?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Site in Floodplain</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

### Surrounding Properties

<u>Existing Land Use</u>		<u>Occupant</u>	<u>Zoning</u>
<b>North</b>	Commercial	Mile High Market Place	PUD
<b>South</b>	Residential	Wikiup Mobile Home Park	ADCO
<b>East</b>	Commercial	Mile High Market Place	PUD
<b>West</b>	Residential	Single Family Dwelling	ADCO

### Case History

*There is no relevant case history for this site.*

## Applicant's Request

The applicant is requesting the zoning and annexation of the subject property in order to develop a new Convenience Store with Fuel Sales on the vacant property. Information provided by the applicant describes the proposed business, known as Murphy Oil, as a convenience store with fuel sales that will operate from a new 1,200 sq. ft. commercial building with a 6,854 sq.ft. canopy to accomodate pump islands. Operations will consist of approximately 3 employees, with operation hours from 5 am to 11:30 pm, every day of the week.

## Development Review Team Analysis

### Comprehensive Plan

The DRT recommendation for this case is supported by the following Comprehensive Plan Goals:

<u>Section</u>	<u>Goal</u>	<u>Description</u>
Land Use	LU 1a	Future Land Use Plan as a Guide: Use the Future Land Use Plan (FLUP) to guide development patterns and mix of uses and amendments to the land Development Code (LDC).
<b><u>Analysis:</u></b>	The proposed zoning keeps the subject property in alignment with the Future Land Use Plan.	
<u>Section</u>	<u>Goal</u>	<u>Description</u>
Land Use	LU 1.3	Positive Benefit of Annexation: The city will consider annexation of areas on a case-by-case basis, ensuring positive social, economic, fiscal, and environmental benefits associated with the potential annexation
<b><u>Analysis:</u></b>	The annexation and zoning of the subject property brings this area of the city into further compliance with the future land use established by the comprehensive plan.	

## **Approval Criteria for Zoning of Newly Annexed Land**

According to Sec. 21-3350 of the LDC, the criteria for zoning newly annexed land states that the subject properties shall be given a zoning classification that meets at least one of the following:

1. Most compatible with the city's comprehensive plan designation;
2. Most comparable to the county zoning classification existing on the subject property at the time of acceptance by the city of the annexation petition for the subject property;
3. Most comparable to the present use(s) of the property.

The DRT reviewed the proposed C-3 zoning classification against the above criteria and concluded that the subject property is compatible with the city's comprehensive plan designation of Commercial Use. Staff notes that the current county zoning classification existing on the subject property is I-1 (Industrial 1). However, the subject property is one of many that are located at the intersection of Highway I-76 and E. 88<sup>th</sup> Avenue. This area is designated as Community Commercial by the Commerce City Comprehensive Plan, with the Future Land Use Plan designating these properties as Commercial.

In conjunction with annexation case AN-244-17 and development plan case D-315-17, the Development Review Team (DRT) has reviewed the request with the approval criteria for the zoning of newly annexed land within Article III of the City's Land Development Code. The following analysis addresses the proposed use, approval criteria for newly annexed land, and the recommendation of city staff based upon the analysis of this case.

## **Existing Property**

The subject property located at the southwest corner of E. 88<sup>th</sup> Avenue and Brighton Rd., is identified as 8799 Brighton Road (Pin: 172120400001), and is approximately 1.7 acres (74,225 sq.ft. in area). The legal description of the property consists of meets and bounds and has never been platted. Therefore, staff will require the land be platted via the Subdivision process prior to any building permits being issued for the site, see condition #1 below.

The property, which is currently vacant, has several attributes which make the site unique, creating constraints on development. This uniqueness consists of an awkward, almost oval or polygonal property shape, bordered by steep embankments on 3 sides created by the surrounding 3 Rights of Way (ROW): Hwy I-76, E. 88<sup>th</sup> Avenue, and Brighton Road.

## **Proposed Use**

The proposed business, known as Murphy Express, is a national chain of convenience stores with fuel sales that utilize a building and canopy development type that reduces overall project footprint, and thus allowing it to fit on the subject parcel. This is important as the land has some inherent development challenges due to the property shape. The applicant proposes to develop and operate a new 1,200 sq. ft. convenience store with a 6,854 sq.ft. canopy. Operations will consist of approximately 3 employees, with hours from 5 am to 11:30 pm, every day of the week.

## **Annexation & Zoning Requirements**

The subject property is identified by the City of Commerce City Future Land Use Plan as Commercial due to its location along 3 heavily traveled rights of way, Hwy I-76, E. 88<sup>th</sup> Avenue, and Brighton Road. Therefore, staff review has found that in conforming to the Comprehensive Plan, a C-3 zoning designation upon annexation would best accommodate the subject application for a convenience store and fuel sales business.

In accordance with the City of Commerce City Land Development Code (LDC), the subject property meets the minimum C-3 zoning lot area requirement as demonstrated in Table 1.1 below. In addition, the proposed commercial building and use (Fuel Sales) is allowed by right in the C-3 zoning district. This district is the only commercial district that allows this use by right. Thus, by zoning the property to C-3, it would allow the applicant to develop the property based upon the standards in the LDC without special board approval. This development will meet all City standards.

**Table 1.1**

<b>C-3</b>	<b>Standards</b>		<b>Proposed</b>	
	Minimum Lot Area	8,000 sq.ft.	<b>Pin:</b> 172120400001	74,225 sq.ft.
	Minimum Lot Frontage	70 feet		369 feet

## **Traffic Study Summary**

The traffic study documents analysis of the potential traffic impacts specific to the new Murphy Express station, both short range and long range future (year 2040) horizons, were evaluated by the applicants engineer. The analyses show that the existing roadway system includes sufficient reserve capacity to accommodate the projected increases in traffic associated with the station through 2040. Relative to this analysis, Public Works / Engineering staff found the Brighton Road ROW is restricted in this area and a modified Major Collector street section has been developed. Furthermore, some site access improvements such as STOP sign controls and a right-turn deceleration lane will be required.

## **Summary and Recommendation**

The DRT has concluded that the requested zone district meets the approval criteria for the zoning of newly annexed land. The subject property size and proposed use have been found to be consistent with a C-3 zoning. The proposed development will help to improve an otherwise derelict property, which has been underutilized due to its physical attributes. Furthermore, the use will provide commercial services such as gas and basic groceries to a neighborhood that currently lacks such services. The zone change will not create substantial undue adverse effects to the surrounding properties and adequate services are available for the existing and future development of the subject property. Based on the analysis above, the DRT is recommending approval of the Annexation zoning for the subject property.

Criteria Met?	Sec. 21-3350. Zoning of Newly Annexed Land	Rationale
<input checked="" type="checkbox"/>	Most compatible with the city's comprehensive plan designation or the property;	The city's comprehensive plan designation for the subject properties is Commercial.
	<b>OR</b>	
<input type="checkbox"/>	Most comparable to the county zoning classification existing on the subject property at the time of acceptance by the city of the annexation petition for the subject property;	The subject property is currently zoned I-1 within Adams County. The most comparable zoning designation within Commerce City is the I-1 zone district.
	<b>OR</b>	
<input type="checkbox"/>	Most comparable to the present use(s) of the property.	The property is vacant and has no present use.

## Development Review Team Recommendation

Based upon the analysis above, the Development Review Team believes that the application meets the criteria for the zoning of newly annexed land as set forth in the Land Development Code and recommends that the Planning Commission forward the Annexation Zoning request to the City Council with a favorable recommendation, subject to following condition:

### CONDITIONS:

1. No building permit for a new structure may be issued for the property until a subdivision plat, corresponding to the Annexation Zoning request is approved.

## \*Recommended Motion\*

### ***To recommend approval subject to condition(s):***

I move that the Planning Commission enter a finding that the requested annexation zoning for the property located at **8799 Brighton Road (Pin: 172120400001)** contained in case **Z-938-17** meets the criteria of the Land Development Code and, based upon such finding, recommend that the City Council approve the Annexation zoning, subject to following condition:

1. No building permit for a new structure may be issued for the property until a subdivision plat, corresponding to the Annexation Zoning request is approved.

## Alternative Motions

### *To recommend approval subject to condition(s):*

I move that the Planning Commission enter a finding that, subject to certain conditions, the requested annexation zoning for the property located at **8799 Brighton Road (Pin: 172120400001)** contained in case **Z-938-17** meets the criteria of the Land Development Code and, based upon such finding, recommend that the City Council approve the annexation zoning subject to the following conditions:

*Insert Condition(s)*

### *To recommend denial:*

I move that the Planning Commission enter a finding that the requested annexation zoning for the property located at **8799 Brighton Road (Pin: 172120400001)** contained in case **Z-938-17** fails to meet the following criteria of the Land Development Code:

*List the criteria not met*

I further move that, based upon this finding, the Planning Commission recommend that the City Council deny the annexation zoning.